Supreme Court, U.S.
FILED
SEP 10 1996
CLERK

(3)

No. 96-197

In The

Supreme Court of the United States

October Term, 1995

Colonel DONALD I. REHMAN (Ret.),

Petitioner,

v.

GARWOOD, MCKENNA, MCKENNA, and WOLF, P.A., An Orlando FL Law Firm, ALLEN J. MCKENNA, Esquire, THOMAS C. GARWOOD, JR., Esquire & THEODORE R. BAUMGARDNER, Esquire,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of Florida

PETITIONER'S REPLY TO BRIEF IN OPPOSITION

COLONEL DONALD I. REHMAN (Ret.)
1390 Windy Ridge Court
Longwood, FL 32750-4501
(407) 260-0690
Petitioner Pro Se

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

1996

QUESTIONS PRESENTED COMMENT

Respondents in their BRIEF IN OPPOSITION, show only one (1) of the nine (9) questions that were presented in the PETITIONER'S PETITION FOR WRIT OF CERTIORARI. In tabular form this is the comparison:

Subject	PETITIONER'S PETITION	RESPONDENTS' REPLY BRIEF
Per curiam affirmed Orders	Ques 1	None
Pro Se Status	Ques 2	None
Art 6, U.S. Const	Ques 3	None
28 U.S.C. § 1367(d)	Ques 4	Ques I
Collateral Estoppel	Ques 5	None
Law of the Case	Ques 6	None
Supplemental Jurisdiction	Ques 7	None
Additional Parties	Ques 8	None
Post-conviction judicial attributes	Ques 9	None
Jurisdiction	None	Ques II

LIST OF ALL PARTIES

All parties appear in the caption of the case on the cover page.

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RESPONDENTS WAIVE OBJECTION TO SOME QUESTIONS PRESENTED

Under Rule 15-2, U.S. Supreme Court Rules, effective October 2, 1995, *"Any objection to consideration of a question presented based on what occurred in the proceedings below, if the objection does not go to jurisdiction, may be deemed waived unless called to the Court's attention in the brief in opposition."*

THIS COURT HAS JURISDICTION

On the matter of Jurisdiction, Respondents assert that because Rehman did not come here within 90 days of the final order from the Fifth District Court of Appeal (5DCA) State of Florida, and went instead to the Supreme Court of Florida, he loses his right to appeal here. However, it is the policy of this Court that when a case is timely before the Supreme Court of Florida, no matter even in a jurisdictional question stage, the Supreme Court of the United States will not permit any Application to Extend the Time to File a Petition for Writ Of Certiorari, returns all such applications, and declares that once a final order is filed at the Supreme Court of Florida (even if that Court rejects for lack of jurisdiction) there is 90 days thereafter in which to file a Certiorari Petition at this Court.

At **Appendix A** hereto is a copy of the cover page of an APPLICATION sent to this Court by Rehman in another case that, like this one, was then before the Supreme Court of Florida on a jurisdictional question. In that application Rehman expresses the concern that it could be

more than 90 days from the date of the final 5DCA order when the Supreme Court of Florida finally determines whether or not it has jurisdiction in the case; and Rehman was concerned that a subsequent Certiorari Petition to this Court would then be declared untimely. As shown by this Court's July 16, 1996 letter at **Appendix B** hereto, in effect this Court considers as premature any appeal to this Court until after the Supreme Court of Florida determines whether or not it has jurisdiction in a case appealed to it. Since Rehman had already been instructed by this Court on its policy, by the **Appendix B** hereto letter, he did not submit any Application or Petition in this instant case at bar because he knew such action would then be frivolous. What is an affront to this Court, by Officers of this Court, the RESPONDENTS in this instant case at bar who are all Attorneys, and their Counsel, is that on July 22, 1996, Rehman faxed this Court's July 16th letter, directly to the respondents because they are Counsels in that case. See copy of fax at **Appendix C** hereto, including electronic receipt of fax transmission. Respondents, despite fully knowing of this Court's policy, sought to perpetrate a hoax upon this Court, with about ten (10) pages in their OPPOSITION BRIEF devoted to why and how this Court supposedly lacks jurisdiction over Rehman's appeal as being supposedly untimely. This Court apparently some time ago took a "common sense", reasonable, conserving of judicial resources, and saving of litigants' money approach, by not allowing applications and petitions to be filed here when any matter is/was before the Supreme Court of Florida; and it makes no difference whether the Supreme Court of Florida ultimately declines to exercise jurisdiction. This procedure

makes for an orderly and fair process. Although RESPONDENTS were in full knowledge of those procedures, they concealed such knowledge from this Court, thus making those jurisdiction assertions, in their OPPOSITION BRIEF, outrageously frivolous.

APPELLATE ATTORNEY'S FEES ISSUE

Respondents go to great lengths to mention and include documents in their BRIEF that the Supreme Court of Florida imposed Appellate Attorney's Fees upon Rehman solely for filing a PETITION there. That does not change the jurisdiction issue before this Court. The Appellate Attorney's Fees were imposed without findings of fact, without findings of law and violates the standards set in the Supreme Court of Florida's own case law. Further, one of the Justices, Justice Harry L. Anstead dissented from the Attorney's Fees Order at Appendix H, page 19a, in Respondents' BRIEF. That entire issue is still pending reconsideration before that Court, and Rehman is hopeful that they will reverse their Fees imposition order. At **Appendix D** is a copy of a Supreme Court of Florida order where Rehman filed a petition in that Court under identical circumstances as in this case at bar, on a "per curiam" order from 5DCA; yet the Supreme Court of Florida denied Appellate Attorney's Fees **(App. E)** to the attorneys in that case who are the Respondents in this case here. In any event, it is not necessary to debate the issue now, since the question before this Court is not whether the Supreme Court of Florida inappropriately

and unjustly summarily invoked Appellate Attorney's Fees; rather, it is that the United States Supreme Court has jurisdiction over Rehman's Appeal. It is doubtful that there is any United States Supreme Court Justice who ever served, who is now serving, or who will ever serve in the future at this Court, who would ever affirm on appeal the Supreme Court in any State "fining" a pro se (which, with no findings of fact, with no findings of law, and in violation of its own case law) who respectfully in an articulate fashion brought a Petition/Application before that Lower Tribunal, paid a $250 docketing fee, in which that Tribunal then found that it supposedly lacked subject matter jurisdiction. The rhetorical question in that matter is whether citizens of the United States shall be fined for merely respectfully petitioning for justice those Courts that were created to protect and preserve the people's State and Federal constitutional rights, and to provide "justice for all".

ERRORS/OMISSIONS IN RESPONDENTS' STATEMENT OF THE CASE

Rehman alleged in his Federal Trial Court case that he was dismissed for engaging in 31 U.S.C. § 3730(h) "Protected Activity". He never alleged, as Respondents misstate on page 3, that discharge occurred because of contact with the U.S. Government, because the employer knew that was about to occur and made a "preemptive strike" and fired him. The erroneous and intentionally defamatory "Personnel Separation Notice" (Page 3 of Respondents' BRIEF) purposely created and given by Respondents here, to the U.S. Government, to maliciously

discredit Rehman, was never recalled by Respondents and replaced with any corrected version; and Respondents never disclosed any error to the U.S. Government. The Federal District Court ruled with respect to the 108 letters (Page 4 of Respondents' BRIEF) that the letters were not defamatory with respect to *ECC International Corp.*, the Defendant in that Federal case (who had not written the letters); however, the State Court Judge in the Defamation case against the Attorney Respondents here, ruled there were genuine issues of material fact and scheduled State Court trial (See Appendices J and K in Rehman's Certiorari Petition).

RESPONDENTS WAIVE ARGUMENTS

RESPONDENTS say on Page 16: *"Respondents are confident that no constitutional rights have been violated in this regard in Mr. Rehman's Florida action and will not comment on them any further"*. They completely ignored issues such as Florida State jurisprudence as regards "collateral estoppel", and numerous other issues/"questions presented" that were raised in Rehman's PETITION; thus they thereby waive and concede arguments; which is grounds in and of itself to grant Rehman's PETITION. Further, almost 100% of all their case law cited pertains only to jurisdiction subject matter issue.

PUBLIC CONCERN ISSUES

Rehman's PETITION has numerous subject areas upon which there appear to be absolutely no Federal case law.

An opinion from this Court on those momentous legal issues, would materially advance Federal jurisprudence and be a monumental public service.

Respectfully submitted,

DONALD I. REHMAN
1390 Windy Ridge Court
Longwood, FL 32750
(407) 260-0690
Petitioner Pro Se

APPENDIX A

No. [ORIGINAL]

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1995

Colonel DONALD I. REHMAN (Ret.), **Petitioner,** **vs.** **ECC International Corp., et al.,** **Respondents.**	[Fla.Sup.Ct. Case Nr. 87,969] [5DCA CASE Nr. 95-1758] [9th Judicial Cir. Case Nr. Cl 94-1586]

APPLICATION TO EXTEND THE TIME
TO FILE A
PETITION FOR WRIT OF CERTIORARI

or alternatively

APPLICATION FOR AN ORDER, DECLARING THAT THE TIME ALLOWED TO FILE A PETITION FOR WRIT OF CERTIORARI AT THE SUPREME COURT OF THE U.S. SHALL NOT EXPIRE UNTIL 90 DAYS AFTER THE Fla.SUP.Ct. MAKES ALL DETERMINATIONS IN CASE Nr. 87,969

Colonel Donald I. Rehman (Ret.)
1390 Windy Ridge Court
Longwood, FL 32750
(407) 260-0690
Petitioner Pro Se

APPENDIX B

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

WILLIAM K. SUTER
CLERK OF THE COURT

AREA CODE 202
479-3011

July 16, 1996

Colonel Donald I. Rehman
1390 Windy Ridge Court
Longwood, FL 32750

RE: Rehman v. ECC International Corp., et al.,

Dear Mr. Rehman:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case was postmarked federal express and received June 16, 1996. The application is returned for the following reason(s):

Your application indicates Florida Supreme Court case No. 87969 is still pending before that Court. Once a final order is filed in that case 87969 you have 90 days within which to file a certiorari petition to this Court. Rule 13.1

Sincerely,
William K. Suter, Clerk
By: /s/ (Illegible)

Sandra Elliott
(202) 479-3025

Enclosures

APPENDIX C

[LOGO]

From: Colonel Donald I. Rehman (Ret.)

Questions? Call (407) 260-0690

1390 Windy Ridge Court
Longwood, Florida 32750

To: **Allen J. McKenna, Esquire**
&
Theodore R. Baumgardner, Esq.

Counsel for Respondents in
87,969
Counsel for ECC

Company: Garwood, McKenna, McKenna,
& Wolf, P.A.
(407) 841-9496,
(407) **841-0533 [fax]**

ECC International Corp.
(407) 859-7410,
(407) 851-1871 [fax]

Address: 731 N. Garland Avenue,
Suite 300
Orlando, Florida 32801

2001 W. Oak Ridge Road
Orlando, Florida 32809-3803

Date: July 22, 1996

Time: 3:26 PM

Pages: (including this one) 2

Message: Attorney Allen J. McKenna &

ATTORNEY THEODORE R. BAUMGARDNER:
SUBJECT: July 16, 1996 Letter from United States Supreme Court.

I received the attached letter from the United States Supreme Court, but there is no indication in it that you were furnished with a copy; thus I am doing so.

Sincerely,

/s/ D. I. Rehman
Donald I. Rehman

1 Attachment

[LOGO]

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

WILLIAM K. SUTER
CLERK OF THE COURT

AREA CODE 202
479-3011

July 16, 1996

Colonel Donald I. Rehman
1390 Windy Ridge Court
Longwood, FL 32750

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Sincerely,
William K. Suter, Clerk
By: /s/ (Illegible)
Sandra Elliott
(202) 479-3025

Enclosures

C4

TRANSMISSION VERIFICATION REPORT

TIME : 07/22/1996 10:03
NAME : DON REHMAN
FAX : 4072600690
TEL : 4072600690

DATE,TIME	07/22 10:02
FAX NO./NAME	8410533
DURATION	00:00:49
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

TRANSMISSION VERIFICATION REPORT

TIME : 07/22/1996 10:05
NAME : DON REHMAN
FAX : 4072600690
TEL : 4072600690

DATE,TIME	07/22 10:04
FAX NO./NAME	8511871
DURATION	00:00:49
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

APPENDIX D

IN THE SUPREME COURT OF FLORIDA

DONALD I. **REHMAN,** **PETITIONER/APPELLANT** **Plaintiff,** **vs.** **ECC INTERNATIONAL CORP.,** A Defense Contractor having an Orlando, FL Facility EVELYN J. **ANDREWS,** individually and in her ECC capacity, DANIEL **CARRILLO, JR.,** individually and in his ECC capacity, GEORGE L. **FRYE, JR.,** individually and in his ECC capacity, AJIT W. **HIRANI,** individually and in his ECC capacity, GEORGE W. **MURPHY,** individually and in his ECC capacity, ANTHONY C. **POLK,** individually and in his former ECC capacity, and JERRY D. **ROBBINS,** individually and in his ECC capacity, **RESPONDENTS/APPELLEES/** **Defendants.**	**CASE NO.: 87,969** [5DCA CASE NO.: 95-01758] [9th Cir. Ct. Case Nr. CI 94-1586]

Donald I. Rehman
1390 Windy Ridge Court
Longwood, FL 32750
(407) 260-0690
APPELLANT/ Petitioner/Plaintiff Pro Se

D2

JURISDICTIONAL BRIEF of Appellant/Petitioner[1]

[Notice of Appeal was filed at 5DCA on May 2, 1996]

(Filed May 13, 1996)

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[1] **Or Alternatively, if Rehman's Appeal is dismissed before this Jurisdictional Brief is filed, then, under Fla.R.App.P. 9.040(c):** ***MOTION FOR REINSTATEMENT if the dismissal order so permits.***

APPENDIX E

Supreme Court of Florida

TUESDAY, AUGUST 20, 1996

DONALD I. REHMAN, Appellant, v. ECC INTERNATIONAL CORP., et al., Appellees.	*	CASE NO. 87,969 District Court of Appeal, 5th District – No. 95-1758

****

Appellant's Motions for Reinstatement filed in the above cause are hereby denied.

Appellees' Motion for Attorneys' Fees are hereby denied. OVERTON, SHAW, GRIMES, HARDING and ANSTEAD, JJ., concur

A True Copy

TEST:

Sid J. White [SEAL]
Clerk, Supreme Court

TC

cc: Hon. Frank J. Habershaw, Clerk
Hon. Fran Carlton, Clerk
Hon. Linda A. Gloeckner, Judge

Mr. Donald I. Rehman
Mr. Theodore R. Baumgardner
Mr. Allen J. McKenna